



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339  
FAX: (360) 679-7306 ■ 1 NE 6<sup>th</sup> Street, P. O. Box 5000, Coupeville, WA 98239-5000  
Internet Home Page: <http://www.islandcounty.net/planning/>

---

### *~ MEMORANDUM ~*

**TO:** Island County Planning Commission

**FROM:** Meredith Penny, Planning Manager

**DATE:** June 18, 2021

**SUBJECT:** Amendments to ICC 17.02B to address Growth Management Hearings Board Case No. 14-2-0009

---

#### Planning Commissioners:

On September 22, 2014 the Island County Board of Commissioners adopted new Fish and Wildlife Habitat protection regulations (ICC 17.02B). On June 24, 2015, the Growth Management Hearings Board (GMHB) issued an order in response to an appeal asserting that the County's update complied with the Growth Management Act with respect to four of the issues raised in the appeal, and did not comply with respect to seven other issues. Island County subsequently adopted ordinances C-44-16, C-71-16, and C-02-17 to address the remaining seven issues.

On July 14, 2017 the GMHB issued an order finding compliance and closing the case. This decision was appealed to superior court who upheld the GMHB's finding of compliance. Thurston County superior court's decision was then appealed to Division II Court of Appeals which then reversed the finding of compliance and remanded the matter back to the superior court to remand to the GMHB for further proceedings. The GMHB has provided the County until October 15, 2021 to address the remaining issues.

As the next step in the process to reach compliance, Planning Staff have drafted proposed amendments to ICC 17.02B which are enclosed with this memo and summarized below.

## **Table of Changes to Island County Code 17.02B**

1. **ICC 17.02B.060** – Addition of Herbaceous Balds, Westside Prairies, and White Oak Woodlands to definitions section to clarify how these habitats are defined.
2. **ICC 17.02B.210** – Change Western Toad occurrence language to designate all breeding and upland occurrences as a regulated FWHCA.
3. **ICC 17.02B.230** – Remove list of known Native Prairies, Herbaceous Balds and Oak Woodlands and adopt by reference designation criteria outlined in the most current version of the “Priority Habitats and Species List” prepared by the Washington Department of Fish and Wildlife (WDFW). As an alternative to the list, the code will reference known habitat occurrences as displayed on a Map prepared by The Watershed Company on June 20, 2016.
4. **ICC 17.02B.400** – Change criteria for waiving biological site assessment (BSA), to include clear standards and thresholds for BSA waiver per the requirements of the Court of Appeals ruling, with variable thresholds based on whether existing residential use is established on a parcel. Definitions are drawn from State Environmental Policy Act criteria, exemption criteria in ICC 17.02B.300, and low impact development techniques outlined by the Department of Ecology.
5. **ICC 17.02B.430.E** – Change to buffer table to address Court Of Appeals protection requirements for the Admiralty Inlet NAP, implementing a standard 100-foot buffer to the southern portion of the forest to prevent blow-down, a recommendation based on best available science and consultant recommendations.

### **Next Steps**

Planning staff will be finalizing draft amendments to the Critical Areas Ordinance, ICC 17.02B, to address the above issues found non-compliant. These amendments will be brought to the Planning Commission and Board of County Commissioners in accordance with the following schedule:

June 28th – Planning Commission Workshop

July 12th – Planning Commission Public Hearing

August 4th – BOCC Workshop

August 17th – BOCC to adopt Planning Commission recommendation or schedule a separate public hearing

September 7th – BOCC Hearing if needed

### **Enclosures**

1. Draft Amendments to ICC 17.02B – Fish and Wildlife Habitat Conservation Areas Appeal Compliance